

COURT OF COMMON PLEAS
FOR THE STATE OF DELAWARE
KENT COUNTY COURTHOUSE
DOVER, DELAWARE 19901
PHONE: (302) 739-4618

CHARLES W. WELCH, III
JUDGE

May 25, 2010

Mr. Michael Dippel
573 Quaker Hill Road
Magnolia, DE 19962

RE: Michael Dippel v. Brian O'Hearn and Margaret O'Hearn
C.A. No.: CPU5-09-002846

Dear Mr. Dippel:

Our court is in receipt of the Notice of Appeal you submitted to the Court on November 20, 2009, concerning the November 2, 2009, decision of the Justice of the Peace Court. However, you failed to file your appeal within 15 days of the Justice of the Peace Court decision, and as a result, this Court lacks jurisdiction to hear your appeal.

Delaware Code Section 9571 of Title 10 provides that an appeal from the Justice of the Peace Court to the Court of Common Pleas "shall be taken within 15 days of the final order, ruling, decision or judgment." Court of Common Pleas Civil Rule 72.3 provides the procedures an appellant must follow for the perfection of an appeal from the Justice of the Peace Court. Court of Common Pleas Civil Rule 72.3 states:

(b) *How taken.* When an appeal de novo is permitted by law, an action is commenced in the Court of Common Pleas by the appellant filing with the Court a notice of appeal within the time prescribed by statute for the filing of an appeal. If no time is prescribed by the statute, the notice of appeal shall be filed within 15 days from the entry of the final judgment, order, or disposition from which an appeal is permitted by law.

If a party fails to comply with 10 Del. C. § 9571, or the procedures set forth in Court of Common Pleas Civil Rule 72.3, the Court of Common Pleas has no jurisdiction over the appeal, and it must be dismissed. *Woods v. Unisex Hair Palace*, 2009 WL 3152878, at *1 (Del. Com. Pl.).

Time is computed in accordance with Court of Common Pleas Civil Rule 6, as follows:

(a) *Computation.* In computing any period of time prescribed or allowed by these Rules, by order of Court, or by statute, the day of the act, event,

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or default after which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday or Sunday, or other legal holiday, or other day on which the office of the Clerk of the Court is closed, in which event the period shall run until the end of the next day on which the office of the Clerk of the Court is open.

In this case, you filed your Notice of Appeal 18 days after the decision of the Justice of the Peace Court. Because you failed to comply with 10 *Del. C.* § 9571 and Court of Common Pleas Civil Rule 72.3, this Court lacks jurisdiction over your appeal. Therefore, your appeal is dismissed with prejudice.

IT IS SO ORDERED.

Sincerely,

A handwritten signature in cursive script, appearing to read "Charles W. Welch, III".

Charles W. Welch, III

CWW:mek

pc: Mr. Brian O'Hearn and Ms. Margaret O'Hearn